

North Yorkshire County Council

Business and Environmental Services

Executive Members

18 December 2020

Review of Driven Carriageway Inspections during Covid-19

Report of the Assistant Director – Highways and Transportation

1.0 Purpose Of Report

- 1.1 The purpose of this report is to seek agreement from the Corporate Director, Business and Environmental Services (BES) in consultation with the BES Executive Members, for a continuation of an amendment to the current Highways Safety Inspection Manual V2.0. This would continue to make provision in the current exceptional circumstances due to the outbreak of Covid-19 for single person highway inspections of all categories of road for which the Highway Authority is responsible.
- 1.2 The intention is to minimise the risk to the Council's employees by adhering to the Government requirement for social distancing and so that highway inspections are carried out within Public Health England Guidelines during the emergency period. This approach also maintains resilience in the delivery of other key services.

2.0 Background

- 2.1 An earlier report was presented to this meeting on 7 May 2020. In that report officers outlined that in complying with its duty to maintain the highway, as outlined within Section 41 of the Highways Act 1980 and for the purposes of Section 58, which provides for special defence, North Yorkshire County Council undertakes inspections of the highway. These inspections incorporate the carriageway, footway, grass verge and pathways upon which the public have a right of access and which are maintained at public expense.
- 2.2 That (7 May 2020) report went on to outline the background to and purpose of the NYCC Highways Safety Inspection Manual (HSIM) and its the primary aim of providing operational guidance to those officers involved in undertaking highways safety inspections and the method of assessing, recording and responding to defects in the highway using a risk based approach.
- 2.3 Also contained in that report was an overview of the Coronavirus Act 2020 and the proposal to amend the HSIM to ensure compliance with the Act and the Regulations without compromising the Council's statutory duties nor unduly compromising the health and wellbeing of Council staff during the Government declaration of a threat to public health
- 2.4 As such, an amendment to the wording in HSIM V2.0 was proposed so that all Category of Roads may be inspected without a dedicated driver so long as that inspection be carried out in both directions and in accordance with the specific Risk Assessment. Following agreement at your meeting, the relevant part of Section 2 of the manual was amended to read as follows:

“As an exception to the above, driven inspections can be carried out from a slow moving vehicle without a dedicated driver being present in low risk situations on category 4b roads, and in the event of a Government declaration of threat to public health for the duration of the declaration made under statutory provisions. This would be in situations where any actionable defects can still be identified and there are no additional public safety risks from not having a dedicated driver. In such circumstances the normal safety inspection vehicle may be replaced with an appropriately liveried Highways Officer’s van. In urban areas, the inspection will be carried out at no more than 10 mph on category 4b roads and 20 mph on higher category roads and in both directions and the Highways Officer must walk any sections where parked vehicles restrict the view of the full highway extent. A record must be kept of the inspection method used.

- 2.5 Minor changes were also made to Section 2.6 – Performance Management, Page 15, regarding the frequency and methodology of safety inspection audits and specifically two types of random inspections.

3.0 Review of these (modified) arrangements

- 3.1 There have been a number of phases and changes to the landscape thus far during the pandemic. In the summer both infection and death rates were falling and restrictions were eased significantly from those initially imposed during the first ‘lockdown’. Towards the end of the summer, sadly rates rose again, necessitating a second ‘lockdown’. Given this ever changing picture, enquiries from local teams regarding how inspections were being undertaken and the pandemic continuing with no clear end in sight, it was agreed between ADH&T and Head of Highway Operations that a formal 6-month review of these arrangements should be undertaken

4.0 Review Process

- 4.1 As part of this review, input from key personnel / groups was requested and two discussions were also held.
- 4.2 The first discussion was on 23 September and included:
- The (then) Corporate Director BES
 - HR Business Partner Shared Service Team
 - Head of Highway Operations
 - Senior Health and Safety Risk Advisor
 - Area Manager (Areas 3 & 4)
- 4.3 During that discussion, it was acknowledged that any potential COVID second wave meant future risk and threat remains high despite rates having begun to subside at that time. Mindful that the COVID risk had not abated, the key themes discussed and issues for further discussion comprised:
- Driving at an appropriate speed – look at immediate lane only not opposite lane
 - Drive in 2 directions to assist in capturing defects on opposite side of road
 - Only identify immediate emergency hazards / don’t record lower category defects
 - Pull over to record emergency defects
 - How this impacts any Section 58 defence, including any high cost claims
 - Needing to ensure and maintain a safe way of working with staff
 - Where our approach sits relative to other authorities
 - Do we consider small teams or ‘same two people’ bubbles

- Being mindful of any NYCC H&S and Government guidance – e.g. we shouldn't force people together - if we can avoid sharing a vehicle then should
- Changes in traffic volumes may reduce again due to second wave
- Lack of available drivers (NYCC or partners) and how to approach

4.4 A second discussion was then held on 8 October 2020 attended by:

- Assistant Director Highways & Transportation
- Head of Highway Operations
- Senior Insurance & Risk Technician NYCC
- Senior Health and Safety Risk Advisor NYCC
- Area Manager (Areas 3 & 4)
- HR Business Partner Shared Service Team

4.5 From an Insurance and Risk Management Perspective, an overview was given from recent conferences / discussion that had been undertaken with the County Council's Insurance solicitors:

4.5.1 First conference – May 2020

- All Yorkshire authorities agreed there cannot be two inspectors in a vehicle.
- Two authorities NE authorities changed to completing two person driven inspections in welfare vehicles to maintain social distancing. They have liaised with unions and everybody was in agreement that this was acceptable. They are considering introducing screens into the welfare vehicles.
- One authority considered Perspex screens but these were rejected. They also considered PPE that the inspectors were refusing to wear it.
- One authority decided a driven inspection could not be undertaken without potential criticism if they had just one inspector driving and inspecting, with the concern it might be suggested they could have missed a defect.
- One authority had put driven inspections were on hold, but that authority had more urban areas.
- One authority was concentrating on their main roads and they stopped seven weeks of maintenance except for emergencies.
- Most authorities have seen a reduction in claim numbers.
- One authority had seen a few reports from cyclists on rural and coastal roads.
- One authority had seen a number of reports of incidents on public rights of way.

4.5.2 Second conference - July 2020

- It was reported that most of the authorities still had one person driven inspections and this would continue for the foreseeable
- Masks have been provided and vehicles fitted with sanitising units. This includes towels, a bin, gloves and water.
- One authority reported having more complaints from cyclists and runners because they are out and about more than before. When reacting to these they are finding they are not actionable.
- One authority had formed bubbles in driven inspections, some continued as normal and some were single inspectors.
- Several authorities had put together a kit bag for each inspector, they have their own bag with hand sanitiser, wipes for vehicles, their own vehicle and a buddy system. They have provided latex gloves as well as work gloves. There are additional washing facilities for employees.
- No masks were required for inspectors working on their own.
- Authorities reported having regular tool box talks, about hygiene - the biggest risk was complacency.

- One authority reports claims were lower
 - Another was seeing more complaints coming in.
 - One authority had seen a drop in complaints, they had kept the customer care line open but this is now back to normal and they are seeing complaints from the public as it was before.
- 4.6 In summary – it appeared single crewed inspections did appear to be the norm across most local authorities but confirmed that inspecting in both directions does assist with any defence and what we are doing is not ‘out of kilter’ to other local authorities.
- 4.7 In terms of ADEPT (Association of Directors of Economy, Planning & Transport) Engineering Board, NYCC’s Assistant Director H&T confirmed in the October 2020 meeting of that group, the vast majority authorities were still undertaking single crewed inspections and weren’t currently planning any change. Since that time the tiered system had changed to the recent lockdown arrangements as COVID infection rates had risen both nationally and locally.
- 4.8 From a Health and Safety perspective, it was confirmed that essentially nothing had changed and government guidance should still be followed - if staff can avoid sharing spacing in vehicles then they should and therefore are complying with the 2m optimum distance. It was also added that if we weren’t able to deliver a level of service with just one person in a vehicle then ‘1m plus’ guidance does exist, including:
- Minimal time shared in vehicle
 - enhanced hygiene
 - fixed teams or partnering
 - ‘heaters’ blowing fresh air / windows open
 - no face to face dialogue / positioning
 - no radios (to avoid loud talking and increase transmissions)
 - driving with windows open
- 4.9 It was also acknowledged that Ringway (who typically provide drivers to assist in Highway Officers undertake such inspections) were still following national guidance to observe the 2m distancing.
- 4.10 HR considerations included feedback that confirmed the NYCC stance is and will remain H&S led with any necessary considerations taken into account, including health conditions of individuals.
- 4.11 Public Health colleagues commented that, from a COVID perspective, the safest way to manage resource is to use single person crews where this is feasible. However, this will need to be balanced against the necessity to have a larger crew depending on the type of work undertaken and any potential impact on service delivery. If a crew of more than one is necessary to undertake an essential function then this would be allowed under the current legislation, although appropriate mitigation measures should be put in place (e.g. use of face coverings, maximising ventilation, keeping to smallest number of contacts possible). However, should one crew member test positive for COVID these measures would not prevent the rest of the crew from being identified as close contacts should they have been in the same vehicle during the individual’s infectious period (48 hours prior to symptom onset, or when test was taken if no symptoms).

- 4.12 UNISON were also engaged with as part of this process We recognise this is a challenging issue, which requires the employer to balance its obligations to maintain a safe highway verses its obligations in respect of Covid
- No solution is ideal – there are problems with single-crew and there are problems with double-crew
 - On balance, and looking at the approach being taken by the vast majority of other local authorities, continuing with single-crew seems to be the right balance at the present time
 - Members have raised concerns about having to drive significantly slower than the prevailing speed, but it was noted this has been reviewed by the employer and that Highway Officers (HOs) will be expected to be driving closer to the prevailing speed of the road they are inspecting
 - Members have also raised concerns about the conflict between concentrating on driving whilst also having to concentrate on highway defects. It was noted the employer has considered this and that HOs will only be expected to identify actionable defects in terms of emergency repairs and that this means identifying defects will be no more onerous than the normal level of awareness that any driver would be expected to have whilst driving on any highway.
- 4.13 UNISON also sought assurances that where HOs are doing more detailed written reports they should be allowed to drive to a Covid-Secure NYCC office/base or their home if necessary. This provision exists and will also be reviewed in terms of existing risk assessments on working in vehicles.
- 4.14 Discussion points considered or revisited by your officers as part of this review included:
- Driving in two directions so only looking for hazards in the lane being driven
 - Protecting resource of Highway Officers (HOs), especially with winter duties, so managing any knock on effect/ impact of a depleted workforce in terms of winter service and public perception regarding social distancing
 - The wider risks associated with two HOs together vs missing actionable defects was deemed to be greater
 - It was acknowledged that we were only asking HOs to identify actionable defects in terms of emergency repairs. As acknowledged above, this was considered to be no more onerous than any member of the traveling public observing hazards on their journey; HOs would of course be required to pull over when safe to do so and record such defects
 - It was anticipated that HOs would drive more closely in line with the speed limit of that route as this was likely to minimise the risk of rear end collisions from other vehicles
 - The need to document this process of review
 - It is important to go through process and document to get to point where we conclude what to do
 - Undertaking inspections during daylight hours in winter months 9.30am–4pm (or earlier)
 - Whether driving to the left hand wheel track / left of centre would assist in picking up defects that could affect cyclists

5.0 Equalities

- 5.1 An initial equality and impact assessment screening form has been completed and is outlined in Appendix A

6.0 Finance

6.1 No financial impact

7.0 Legal

7.1 The County Council as Local Highway Authority, Street Authority and Traffic Authority has a wide range of statutory duties imposed by a variety of legislation.

7.2 The legal impacts of the emergency legislation, which has been enacted are highlighted in the report and background paper (executive Members report of 7 May 2020).

8.0 Climate Change Impact Assessment

8.1 The current changes to the Highways Safety Inspection Manual with respect to driven carriageway inspections during Covid-19 were put in place to allow certain safety inspections to be completed without a dedicated driver. This amendment to how the service is delivered has no impacts with respect to climate change and so there is no need for a climate change impact assessment.

9.0 Recommendation(s)

9.1 It is recommended that the Corporate Director BES and the BES Executive Members agree:

- i. the relevant part of Section 2 of the Highway Safety Inspection Manual that currently reads: *'The maximum speed of the inspection vehicle throughout an inspection will be 20mph'* is amended with the highlighted text shown below to read:

'The maximum speed of the inspection vehicle throughout an inspection will be 20mph unless a dynamic risk assessment on rural roads concludes it is safer to undertake these inspections at a speed more in keeping with traffic flows. However, this would still be limited to no more than 20mph on category 4b roads and 30mph on higher category rural roads'

- ii. to retain the amendments made to the HSIM following the Executive Members meeting of 7 May 2020 shown in italics in para 2.4 of this report, with the addition of the text shown as highlighted below:
"As an exception to the above, driven inspections can be carried out from a slow moving vehicle without a dedicated driver being present in low risk situations on category 4b roads, and in the event of a Government declaration of threat to public health for the duration of the declaration made under statutory provisions. This would be in situations where any actionable defects can still be identified and there are no additional public safety risks from not having a dedicated driver. In such circumstances the normal safety inspection vehicle may be replaced with an appropriately liveried Highways Officer's van. In urban areas, the inspection will be carried out at no more than 10 mph on category 4b roads and 20 mph on higher category roads and in both directions and the Highways Officer must walk any sections where parked vehicles restrict the view of the full highway extent. A record must be kept of the inspection method used including those occasions where the inspection was conducted between 20mph and 30mph in rural locations.

- iii. that such amendments are only to be effective for the duration of the public health response period as conferred by the Coronavirus Act 2020 and the Health Protection (Coronavirus Restrictions) (England) Regulations 2020 and made by Government declaration
- iv. that a further review is undertaken at the end of March 2021 unless deemed necessary to be undertaken sooner.

BARRIE MASON
Assistant Director
Highways and Transportation

Author of Report: Nigel Smith

Background Documents:
Report to Executive Members 7 May 2020

Initial equality impact assessment screening form (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	BES		
Service area	H&T		
Proposal being screened	Amendment to Highways Safety Inspection Manual V2.0 (HSIM)		
Officer(s) carrying out screening	Nigel Smith		
What are you proposing to do?	Amend the HSIM to allow for single person carriageway inspections during the Covid-19 social distancing protocols		
Why are you proposing this? What are the desired outcomes?	Endorsement of the Recommendations within this report allows NYCC to fulfil its obligations under the Highways Act 1980 whilst complying with the social distancing guidelines set down by Public Health England.		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics?			
As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? 			
If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your <u>Equality rep</u> for advice if you are in any doubt.			
Protected characteristic	Yes	No	Don't know/No info available
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	

Marriage or civil partnership		✓	
NYCC additional characteristic			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	No.		
Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	No		
Decision (Please tick one option)	EIA not relevant or proportionate:	✓	Continue to full EIA:
Reason for decision	The proposed works will have no negative impact on the operation of the highway from the current position or on any of the protected characteristics.		
Signed (Assistant Director or equivalent)	Barrie Mason		
Date	3 December 2020		